

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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In re

Anthony J. Rodriquez and  
Brenda M. Cirillo

Debtors

Chapter 13  
Case No. 13-41492

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**REQUEST FOR EMERGENCY DETERMINATION ON MOTION FOR APPROVAL  
OF A NINETY (90) DAY POSTPONEMENT OF A FORECLOSURE AUCTION BY  
PUBLIC PROCLAMATION AND REQUEST TO LIMIT NOTICE**

To the Honorable Melvin S. Hoffman, United States Bankruptcy Judge:

Pursuant to Federal Rules of Bankruptcy Procedure ("FRBP") 2002(b) and 9006(c) and Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Massachusetts ("MLBR") 2002-1(a) and 9013-1(g), Creditor Workers Credit Union, by and through its attorney, The Law Office of Thomas A. Gibbons, P.C., hereby submits this emergency motion requesting that this Court determine on an grant on an emergency basis the Motion for Approval of Ninety (90) Day Postponement of a Foreclosure Auction by Public Proclamation and Request to Limit Notice and, to the extent that FRBP 2002(b) and MLBR 2002-1 may apply, (a) limit notice to those parties registered to receive notice through the ECF system and those parties who hold liens of record on 19 Underwood Road, Hubbardston, Massachusetts (the "Premises"); and (b) setting a hearing, if necessary, on the Motion for Approval of Ninety (90) Day Postponement of a Foreclosure Auction by Public Proclamation. In support of the Motion for Approval of Ninety (90) Day Postponement of a Foreclosure Auction by Public Proclamation Creditor Workers Credit Union states as follows:

1. Emergency determination is requested as a Foreclosure auction of the Premises is currently scheduled for August 1, 2013. A Foreclosure auction scheduled for June 6, 2013 has already been postponed by Workers Credit Union. Postponing a second Foreclosure auction of the Premises without approval of this Court will expose Workers Credit Union to actual and punitive damages under In re John P. Sherkanowski, Unpublished, (Bnkr. D.N.H.) and In re Linda Lynn-Weaver, Bankruptcy Case No. 06-11544, (Bnkr. D.M.A.) (postponing a Foreclosure Auction by Public Proclamation more than once is a violation of 11 U.S.C. § 362).

2. Workers Credit Union requests that notice be limited to those receiving notice through the ECF system and lien holders of record in order to keep the administrative costs proportionate to the amount in controversy, and that said lien holders' interests are subordinate to a priority lien on the Premises held by Workers Credit Union.

3. On June 5, 2013 Debtors Anthony J. Rodriquez and Brenda M. Cirillo filed a Chapter 13 Voluntary Petition with deficiencies.

4. On June 5, 2013 the Bankruptcy Court issued an Order to Update which required, amongst other Orders, a Chapter 13 Plan to be filed by June 19, 2013 by Debtors or Debtors' Counsel.

5. On June 19, 2013 Debtors Anthony J. Rodriquez and Brenda M. Cirillo filed a Motion to Extend Deadline for Filing Plan requesting a Thirty (30) Day Extension.

6. On June 19, 2013 the Bankruptcy Court allowed said Motion to Extend Deadline for Filing Plan.

7. As of July 16, 2013 said Chapter 13 Plan has not been filed with the Bankruptcy Court.

8. On July 12, 2013 an attorney from this office attended a Meeting of Creditors on behalf of Workers Credit Union at the Worcester U.S. Trustee Office in Worcester, Massachusetts.

9. At said Meeting of Creditors on July 12, 2013 Attorney Rosaleen Clayton, counsel for Debtors Anthony J. Rodriquez and Brenda M. Cirillo, failed to appear as apparently the matter was continued to allow Debtors to obtain substitute counsel.

10. As a result of the failure by Debtor's counsel to appear at said Meeting of Creditors and the inability of Workers Credit Union to review a Chapter 13 Plan, Workers' Credit Union cannot effectively determine whether to seek a motion for relief to Foreclose or to cancel the Foreclosure if the Chapter 13 Plan is likely to be approved.

WHEREFORE, Creditor Workers' Credit Union ("Workers' Credit Union") respectfully requests that this Honorable Court:

A. Permit Workers' Credit Union to postpone the scheduled Foreclosure Auction of 19 Underwood Road, Hubbardston, Massachusetts, currently scheduled for August 1, 2013, for a period of Ninety (90) Days to allow Workers Credit Union to determine, after reviewing the Chapter 13 Plan, whether to seek relief to Foreclose or cancel the Foreclosure Auction; and

B. Grant such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

By its attorneys,  
THE LAW OFFICE OF THOMAS  
A. GIBBONS, PC

Date: July 16, 2013

By: /s/ Thomas A. Gibbons  
Thomas A. Gibbons, Esquire  
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21 Park Street  
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tgibbons@tgibbonslaw.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion, Certificate of Efforts to Contact Affected Parties, and Proposed Order was this day sent electronically to:

William T. Bogaert: to [william.bogaert@wilsonelser.com](mailto:william.bogaert@wilsonelser.com) and  
[michelle.keith@wilsonelser.com](mailto:michelle.keith@wilsonelser.com)

Rosaleen J. Clayton: to [rondonlaw@aol.com](mailto:rondonlaw@aol.com) and [roseclaytonlaw@gmail.com](mailto:roseclaytonlaw@gmail.com),

Richard King: to [ustpreion01.wo.ecf@usdoj.gov](mailto:ustpreion01.wo.ecf@usdoj.gov)

Denise M. Pappalardo: to [denisepappalardo@ch13worc.com](mailto:denisepappalardo@ch13worc.com) and  
[paper@mab.uscourts.gov](mailto:paper@mab.uscourts.gov)

I certify that a copy of the foregoing Motion was this day sent by facsimile to:

Atlantic Credit & Finance: to (540) 772-7895

Portfolio Recovery Associates, LLC: to (757) 321-2504

Date: July 16, 2013

By: /s/ Thomas A. Gibbons  
Thomas A. Gibbons, Esquire

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion, Certificate of Efforts to Contact Affected Parties, and Proposed Order was this day sent electronically to:

William T. Bogaert: to [william.bogaert@wilsonelser.com](mailto:william.bogaert@wilsonelser.com) and  
[michelle.keith@wilsonelser.com](mailto:michelle.keith@wilsonelser.com)

Rosaleen J. Clayton: to [rondonlaw@aol.com](mailto:rondonlaw@aol.com) and [roseclaytonlaw@gmail.com](mailto:roseclaytonlaw@gmail.com),

Richard King: to [ustpreion01.wo.ecf@usdoj.gov](mailto:ustpreion01.wo.ecf@usdoj.gov)

Denise M. Pappalardo: to [denisepappalardo@ch13worc.com](mailto:denisepappalardo@ch13worc.com) and  
[paper@mab.uscourts.gov](mailto:paper@mab.uscourts.gov)

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Date: July 16, 2013

By: /s/ Thomas A. Gibbons  
Thomas A. Gibbons, Esquire

**Certificate of Efforts to Contact Affected Parties Regarding Emergency Determination on Motion for Approval to Postpone Foreclosure Auction by Public Proclamation**

I certify that the following efforts to contact the below affected parties regarding an Emergency Determination on Motion for Approval to Postpone Foreclosure Auction by Public Proclamation were made this 16th day of July, 2013 prior to submission of said Motion:

1. William T. Bogaert: by email to [william.bogaert@wilsonelser.com](mailto:william.bogaert@wilsonelser.com) and [michelle.keith@wilsonelser.com](mailto:michelle.keith@wilsonelser.com)
2. Rosaleen J. Clayton: by email to [rondonlaw@aol.com](mailto:rondonlaw@aol.com) and [roseclaytonlaw@gmail.com](mailto:roseclaytonlaw@gmail.com), and by telephone to (508) 832-9006 (disconnected number)
3. Richard King: by email to [ustpregion01.wo.ecf@usdoj.gov](mailto:ustpregion01.wo.ecf@usdoj.gov)
4. Denise M. Pappalardo: by email to [denisepappalardo@ch13worc.com](mailto:denisepappalardo@ch13worc.com) and [paper@mab.uscourts.gov](mailto:paper@mab.uscourts.gov)
5. Atlantic Credit & Finance: by telephone call to (866) 397-4100 and facsimile to (540) 772-7895
6. Portfolio Recovery Associates, LLC: by telephone call to (757) 519-9300 and facsimile to (757) 321-2504

Date: July 16, 2013

By: /s/ Thomas A. Gibbons  
Thomas A. Gibbons, Esquire

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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In re

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Debtors

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**Order Granting Workers Credit Union Motion for Ninety (90) Day Postponement of a  
Foreclosure Auction by Public Proclamation**

This matter has come before the Court, and after full consideration, and no objections having been filed after proper notice, it is hereby ordered that a Ninety (90) Day Postponement of a Foreclosure Auction by Public Proclamation is hereby granted. Workers Credit Union shall be allowed to postpone the scheduled foreclosure sale of August 1, 2013 to October 30, 2013.

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Honorable Melvin S. Hoffman  
United States Bankruptcy Judge